IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINETEENTH DAY OF DECEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE BILAL NAZKI

and
THE HON'BLE SRI JUSTICE S.ANANDA REDDY

–

WRIT APPEAL Nos.2196 & 2366 of 2005

WA.No.2196 OF 2005

Between:

Mullah Taher Ali

.....PETITIONER

AND

The Registrar,

N.T.R.University of Health Sciences,

Vijayawada, Krishna District.

.....RESPONDENT

WA.No.2366 OF 2005

Between:

1.N.T.R.University of Health Sciences,

Vijayawada, represented by its Registrar,

and another.

.....PETITIONERS

AND

1.Swapna Krishna Kumar and another.

.....RESPONDENTS

COMMON JUDGMENT: ***(Per Hon'ble Sri Justice Bilal Nazki)***

Both these Writ Appeals are being disposed of by common judgment, as there is common question of law and fact, although the learned single Judge has given different treatment to both the cases.

Writ Appeal No.2366 of 2005 is filed by the appellant-University against an order of the learned single Judge in W.P.No.23120 of 2005, dated 03-11-2005. Writ Petitioner-first respondent filed the writ petition seeking revaluation of her answer script in respect of Theory part of Rehabilitation Medicine subject pertaining to 8th Semester of Batchelor of Physio Therapy course. Writ Petitioner was a student of
Physio Therapy and she failed in one of the papers *viz*., Rehabilation Medicine. She approached the Court seeking revaluation of her answer script on the following ground:

> " I submit that if my Theory Paper in the subject of Rehabilitation Medicine is revalued,

> I am sure of getting through the same as
> I apprehend that some of my answers might not have been valued by the Valuers."

The learned single Judge, who summoned the answer scripts, did not find that any of the answers had escaped the attention of the Valuer, but found that,

> 'A bare perusal of the answer script discloses that the performance of the petitioner was not that sub-standard as to have been awarded the fail marks.'

On the basis of this finding, the Court also was of the view that the candidates cannot be left in lingering doubt as to whether the valuation of their papers had been carried correctly or not. The learned single Judge observed that,

> " This court is of the view that a lingering doubt in the mind of the petitioner as to the evaluation can be removed by requiring the University to get the answer script evaluated by an examiner from a different university."

The learned single Judge also noted that there is no provision for revaluation of answer scripts in the course of Physio Therapy at undergraduate level. In our view, this ground should have been sufficient to reject and dismiss the writ petition.

Generally, crores of candidates appear in different examinations in the country, and if all candidates express their doubts that their papers have not been correctly valued and assessed,

the examinations and valuation of papers would be an unending process. It is for the experts to evaluate the answer scripts. This Court is neither competent nor able to say whether an

answer script pertaining to a subject of Physio Therapy i.e., Rehabilitation Medicine was correctly evaluated or not.

The learned Counsel for the appellant, however, relied on a Judgment of this Court reported in ***M.Lavanya Dutt vs. JNTU, Hyderabad***. In Para 6 of the said judgment, some principles have been laid by the High Court that the Court should be aloof in controversies like the one, we are presently handling. Although in that case, the allegations of *mala fide* had been withdrawn, but the Court found that there were shades of *mala fides*. Therefore, it adopted the specific course. We do not think that the said judgment is relevant for the present controversy.

The learned counsel for the appellant-university has also relied on an unreported judgment of a Division Bench of this Court in W.A.No.796 of 1999 dt 26-02-1999, by which the order of the learned single Judge directing revaluation of the answer script was set aside, holding that there is no statutory provision for revaluation.

In this view of the matter, the writ petition could not have been allowed. While relying on this judgment also, we allow W.A.No.2366 of 2005, and set aside the judgment passed by the learned single Judge in W.P.No.23120 of 2005, dt.03-11-2005. We are told that in consequence of the order of the learned single Judge, papers were sent to outside university for revaluation. We make it clear that even if the paper is revaluated, that revaluation shall not be taken into consideration for any purpose.

Coming to Writ Appeal No.2196 of 2005, which was almost in the similar facts and circumstances, the writ petitioner-appellant, who had appeared in the examinations of BUMS, had failed in one of the papers being the paper of Surgery. He also filed a writ petition being W.P.No.19542 of 2005 taking a specific plea that certain answers were not assessed and valued. The learned single Judge summoned the papers of the writ petitioner-appellant and got them verified through an Advocate, who knew Urdu, because the answer script was in Urdu, and found

that marks were not given to the respective answers independently but found that the marks were awarded to all the questions attempted by the writ petitioner-appellant. The Court also called for the remarks from the examiner, who valued the answer scripts. He furnished his remarks *vide* communication dated 22-09-2005, in which it is categorically stated that all the answers were valued. The learned single Judge was right in holding that since there is no provision for revaluation of the answer scripts for BUMS course, therefore, no relief can be granted. We are relying on this judgment also while dismissing the W.A.No.2196 of 2005 filed by the candidate, and allowing Writ Appeal No.2366 of 2005 filed by the University.

Accordingly, W.A.No.2196 of 2005 is dismissed, and W.A.No.2366 of 2005 is allowed. No costs.

(Bilal Nazki, J)

19th December, 2005

(S.Ananda Reddy, J)

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